



Appeal Decisions

Site visit made on 7 October 2025

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 12th January 2026

Appeal A Ref: APP/Y0435/C/24/3347849

Appeal B Ref: APP/Y0435/C/24/3347850

13 Levens Hall Drive, Westcroft, MILTON KEYNES, MK4 4GD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Elzan Seraj and Mrs Hannah Lousie Edwards respectively against an enforcement notice issued by Milton Keynes Council.
 - The notice was issued on 13 June 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a single storey front extension, loft conversion and dormer with Juliette balcony at the Existing Dwelling. ("Unauthorised Operational Development") Planning permission 21/01982/FUL was refused on the 12 November 2021.
 - The requirements of the notice are to: i) Permanently remove the single storey front extension as refused within 21/01982/FUL. ii) Permanently remove the loft conversion as refused within 21/01182/FUL. iii) Permanently remove the dormer as refused within 21/01982/FUL. iv) Permanently remove the Juliette balcony as refused within 21/01982/FUL v) Permanently remove all debris and materials from the site that arise from carrying out steps (i) to (iv) above
 - The period for compliance with the requirement is 12 months.
 - The appeals are proceeding on the grounds set out in section 174(2) (b), (d), (e), (f) of the Town and Country Planning Act 1990 (as amended). Since Appeal A has also been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected by the deletion of the words "A separate detached dwelling ("Existing Dwelling")" from Paragraph 2, and the words "to the existing dwelling" from Paragraph 3.
2. Subject to the corrections the appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (e)

3. This ground of appeal is that copies of the notice were not served as required under the 1990 Act. The appellants have not in fact argued any procedural irregularities in the service of the notice, or that it was not served on all of the required parties. The points that they have raised in relation to the timing of the issue of the notice are dealt with below in relation to the ground (d) appeal.
4. The appeal on ground (e) cannot succeed.

Ground (b)

5. The elements of the planning history of the site most relevant to this appeal are:
 - 09/00177/FUL (“the 2009 Permission”). Conversion of existing detached outbuilding (garage and loggia) to a one bedroom annexe and conversion of side passage to a room. Allowed.
 - 17/00836/FUL (“the 2017 Permission”), Conversion of existing detached dwelling to provide three self-contained flats (2 x two bedrooms and 1 x one bedroom) and conversion of existing garage to a one bedroom self-contained dwelling with associated parking provision and landscaping. Allowed at appeal (APP/Y0435/W/17/3178044). Not implemented.
 - 21/01982/FUL (“the 2021 Application”), Retrospective application for the erection of a single storey front extension, loft conversion and dormer with Juliette balcony to existing dwelling. Refused
6. The development is part of a residential site which the appellants state is being used as a single dwellinghouse. The site has a three-storey detached dwelling house with a detached garage, covered driveway and rear garden. The alleged development has taken place on a pre-existing single storey outbuilding in the rear garden.
7. It is not clear from the appellants evidence whether the 2009 Permission was implemented whilst it was extant. In any event, the 2009 Permission was subject to a condition that the residential use would be ancillary to the existing residential use of the host dwelling. The appellants’ case is that the detached garage was converted as an annexe to the principal dwelling rather than forming part of a separate dwelling, and that it was extended with part single storey front extension and an additional floor to provide three bedrooms and a lounge with Kitchenette set.
8. The description of the land to which the notice relates in Paragraph 2 refers to “Land at the rear of 13 Levens Hall Drive Westcroft Milton Keynes, MK4 4GD. A separate detached dwelling (“Existing Dwelling”) shown edged red on the attached plan (“the Site Plan”). The plan attached to the notice as Appendix 1 shows the whole of the plot for 13 Levens Hall Drive as registered at the Land Registry edged red.
9. The notice alleges operational development, and does not allege a material change of use of the rear building to form a separate dwellinghouse. The appellants accept that the works have taken place, and for which they do not have planning permission as is evidenced by the subsequent retrospective 2021 Application which was refused.
10. However, the description of the land in Paragraph 2 is confusing, and should be corrected for the purposes of clarity. The appellant states that the outbuilding is used ancillary to the host building at 13 Levens Hall Drive, and the plan attached to the notice also identifies this wider site, and not just the part of it covered by the outbuilding. Paragraph 2 of the notice should therefore be corrected to remove the reference to the separate detached dwelling which is not required, and is not relevant to the alleged breach in any event which concerns only operational development. Making this correction will bring the description of the use of the land

into line with that given by the appellants i.e. that the outbuilding is not a separate planning unit but used ancillary to the main dwellinghouse. This correction can be made without causing injustice to the parties who have been able to make their cases with reference to the operational development and understood the purpose of the notice. Any future use of that building as a separate dwellinghouse would require planning permission.

11. Ground (b) is an appeal on the basis that the matters as alleged to be a breach of planning control have not occurred. As the matters alleged to be a breach of planning control in the notice are operational works which are not disputed by the appellant, the appeal on ground (b) cannot succeed.

Ground (d)

12. This ground is that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by the matters stated in the notice. The notice was issued on 13 June 2024 which means that to be immune from enforcement action, the works would have needed to have been substantially completed before 13 June 2020.
13. The only evidence provided by the appellants in this case is that the development has been occupied since 2021 but this is clearly well short of the required 4 years prior to the issue of the notice. As it is for the appellants to prove their case on this ground on the balance of probabilities, and they have failed to provide clear and precise evidence to show when the operational development was substantially completed, the appeal on ground (d) fails.

Ground (a) and the deemed planning application

14. The deemed planning application is for the development alleged in the notice, i.e. the erection of a single storey front extension, loft conversion and dormer with Juliette balcony.
15. The main issues are the effect of the development on the character and appearance of the area, and on the living conditions of the occupiers of 16, 18 and 20 Killerton Close in respect of overlooking and loss of privacy in their outdoor spaces.
16. The notice also referred to an intensification of the residential use from a 1-bedroom unit to a 3 bedroom dwelling and the amount of associated external amenity space but this is no longer relevant as the notice has been corrected to reflect the use of the outbuilding as ancillary to the dwellinghouse.
17. The appeal property is a large dwellinghouse on a corner plot in a residential area. There is a lot of on street parking taking place notwithstanding the fact that the roads and footways are fairly narrow, and many of the properties have garages or other off-street parking provision.
18. The outbuilding in the rear garden was originally a single storey building with a mono-pitched sloped roof, and has been extended to include a single storey front extension with rooms added into the loft space and addition of a Juliette balcony. The balcony, and other windows at first floor level to the front of the building, face into the rear garden of the host property, but are also close to the rear of the properties of 16, 18 and 20 Killerton Close which back onto that boundary (albeit with a small alleyway between the rear fences). The development is clearly seen

from the road and footways to the east of the plot, and its height and bulk are evident above the boundary wall.

19. The other houses in the vicinity are predominantly built from red bricks, with brown coloured tiled peaked roofs and with some more limited use of light-coloured rendered areas. The roof extension added to the outbuilding has a flat roof and is clad in dark grey boards, with dark window frames. Its design and the materials used is at odds when viewed in the context of the nearby buildings which are brick-built with sloping tiled roofs. The dark colour and type of materials, as well as the height and mass of the outbuilding with the flat roof in the rear garden appears discordant and out of place in that location. As such, it harms the character and appearance of the area. This is in conflict with Policies D1, D2 and D3 of the Plan:MK 2016 – 2013 (“the PMK”) (part of the development plan for the area) which promote well designed buildings and which seek to ensure, amongst other things, that development as a whole responds appropriately to the site and surrounding context,
20. Whilst I did not view the development from within 16, 18 and 20 Killerton Close, I was able to inspect the site from the side road and footway, and from the alleyway between the rear boundaries. The trees and other vegetation along the rear of the appeal site are currently very large and overgrown, and as such there is very little visibility, at least during the summer months. However, should this vegetation be reduced, the size of the roof extension and position of the windows including the Juliette balcony will lead to increased overlooking of the rear gardens of those properties on 16, 18 and 20 Killerton Close. Such overlooking of the only private garden areas would cause harm to the living conditions of those occupiers which is in conflict with Policy D5 of the PMK which seeks to ensure that overlooking is limited to an acceptable degree, and that new development is not overbearing upon existing buildings.
21. The appellants state that they require the kitchen and bathroom accessible at ground floor level within the development, as well as the additional bedrooms to accommodate guests. However, there is nothing before me to show why they would be unable to use the ground floor accommodation or bedrooms in the main house for these purposes, despite stating that the outbuilding is being used ancillary to it. There will be a financial implication in undertaking the remedial works but these considerations, even taken together, do not outweigh the harm identified above.
22. The development causes harm to the character and appearance of the area, and the living conditions of the occupiers of the properties at Killerton Close, and this is in conflict with the PMK as set out above. The development is not in accordance with the material development plan policies, and as there are not any considerations to indicate otherwise, the ground (a) appeal fails and the deemed planning application is refused.

Ground (f)

23. This ground of appeal is on the basis that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control. The purpose of the notice was to remedy the breach through the removal of the unauthorised operational development, and as such the requirements do not exceed what is necessary. I have dealt with the other considerations raised by the

appellants under this ground as part of the ground (a) appeal but the lesser steps suggested will not overcome the planning harm as set out above.

24. The appeal on this ground does not therefore succeed.

Zoë Frank

INSPECTOR